

Message Text

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ACTION ARA-10

INFO OCT-01 IO-10 ISO-00 OFA-01 L-02 SCS-03 EB-07 SCA-01

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NSAE-00 NSC-05 OES-03 ARAE-00 /083 W

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P R 051350Z MAY 75

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC PRIORITY 9011

INFO AMEMBASSY MEXICO

USMISSION GENEVA

AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

NATIONAL MARINE FISHERIES SERVICE, ST. PETERSBURG, FLA.

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E.O.11652: N/A

TAGS: EFIS, BR

SUBJECT: NOTE TO GOB NOTE ON SHRIMP VESSEL SEIZURE

MEXICO PASS FISHERIES ATTACHE

GENEVA PASS CLINGAN

REF: BRASILIA 2971

1. EMBASSY HAS RECEIVED FOREIGN MINISTRY NOTE, DATED APRIL 25,
RESPONDING TO EMBASSY DEMARCHE REPORTED REFTEL ANDNOTE PROTESTING
SEIZURE OF US SHRIMP BOATS:

BEGIN TEXT:

THE MINISTRY OF EXTERNAL RELATIONS... HAS THE HONOR TO
ACKNOWLEDGE RECEIPT OF NOTE 142 OF APRIL 16, 1975 REGARDING
THE DETAINMENT OF THE AMERICAN SHRIMP BOATS "TINA MARIE" AND
"YOUNG'S" AND ITS RELATIONSHIP WITH THE AGREEMENT CONCERNING
SHRIMP SIGNED BY THE TWO COUNTRIES ON MARCH 14, 1975.

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THE MINISTRY TOOK NOTE OF THE INTERPRETATION THAT THE

AMERICAN GOVERNMENT GIVES TO THE REFERENCED AGREEMENT: THE BRAZILIAN INTERPRETATION, HOWEVER, IS DIFFERENT AND RESULTS FROM ITS POSITION ON THE EXTENSION OF THE BRAZILIAN TERRITORIAL SEAS, A POSITION, MOREOVER, THAT IS ALREADY PUBLIC AND KNOWN TO THE UNITED STATES GOVERNMENT.

IN FACT, THE BRAZILIAN TERRITORIAL SEA WAS EXTENDED TO 200 MILES BY DECREE NO. 1098 OF MARCH 25, 1970 AND A STATEMENT IN THIS REGARD IS PART OF THE PREAMBLE OF THE AGREEMENT. FISHING ACTIVITIES BY FOREIGN VESSELS IN THIS TERRITORIAL SEA ARE PROVIDED FOR UNDER ARTICLE 4 OF THE AFOREMENTIONED DECREE AND REGULATED BY DECREE NO. 68459 OF APRIL 1, 1971. THE "AREA OF AGREEMENT" MENTIONED IN THE REFERENCED NOTE IS CONSIDERED BY BRAZIL AS AN INTEGRAL PART OF THE BRAZILIAN TERRITORIAL SEA AND REGULATED BY SPECIAL STATUTE, BY VIRTUE OF THIS AGREEMENT, AS PROVIDED FOR IN ARTICLE 20 OF DECREE 68459. OUTSIDE THIS AREA, IN THE REMAINDER OF THE BRAZILIAN TERRITORIAL SEA, FOREIGN VESSELS MAY ONLY OPERATE WITH PRIOR AUTHORIZATION OF THE BRAZILIAN GOVERNMENT AND AFTER HAVING COMPLIED WITH THE REQUIREMENTS OF ARTICLES 4, 5, 6, AND 7 OF THE DECREE IN QUESTION.

THOSE RESPONSIBLE FOR FOREIGN VESSELS THAT DO NOT COMPLY WITH THESE REQUIREMENTS WILL BE CHARGED WITH THE CRIME OF SMUGGLING IN ACCORDANCE WITH ARTICLE 9 OF DECREE LAW 221 OF FEBRUARY 28, 1967: IN SUCH CASES THE PUBLIC AUTHORITY MAY ORDER THE INTERDICTION OF THE VESSEL, ITS EQUIPMENT AND CARGO, AND CHARGE THE CAPTAIN UNDER THE PREVAILING PENAL LEGISLATION. THE PRACTICAL CONSEQUENCES OF THESE LEGAL PROVISIONS CAN BE THE LOSS OF THE VESSEL, EQUIPMENT AND CARGO, IN FAVOR OF THE NATIONAL TREASURY, AS WELL AS THE IMPRISONMENT OF THE CAPTAIN.

IN THE CASE OF THE "TINA MARIE" AND "YOUNG'S" THE BRAZILIAN AUTHORITIES PREFERRED TO CONSIDER THEM AS VIOLATORS OF THE AGREEMENT AND SUBJECT TO THE PENALTIES OF FINE AND SEIZURE OF CARGO INSTEAD OF APPLYING THE ABOVE DESCRIBED LEGISLATION TO ITS FULL EXTENT, HAVING IN VIEW THE GOOD RELATIONS BETWEEN THE TWO COUNTRIES AND THE POSSIBILITY OF CHOOSING A LESS SEVERE PENALTY.

LASTLY, THE BRAZILIAN GOVERNMENT FULLY AGREES WITH THE STATEMENT THAT THE AGREEMENT CONCERNING SHRIMP IS A USEFUL INSTRUMENT AND IT APPRECIATES THE EFFORTS OF THE AMERICAN LIMITED OFFICIAL USE

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GOVERNMENT TO ENCOURAGE VOLUNTARY COMPLIANCE WITH ITS PROVISIONS BY THE AMERICAN SHRIMP INDUSTRY. IN TURN, THE BRAZILIAN GOVERNMENT SEEKS TO ADOPT ATTITUDES AND MEASURES THAT FAVOR A GOOD UNDERSTANDING BETWEEN THE TWO COUNTRIES AND BELIEVES THAT THE PRACTICAL SOLUTION APPLIED IN THE SUBJECT CASE CONFORMS TO THIS POSITION.
END OF TEXT.

2. COMMENT: THE MINISTRY NOTE TAKES THE POSITION THAT WAS ANTICIPATED BY THE CHIEF OF THE BASIC PRODUCTS DIVISION, SERGIO BATH, WHEN WE PRESENTED PROTEXT ON APRIL 17. AT THAT TIME, BATH INDICATED THAT HE HOPED THE EXCHANGE OF NOTTES ON INTERPRETATIONS OF AGREEMENT WOULD ESSENTIALLY CLOSE THE "TINA MARIE" AND "YOUNG'S" INCIDENT AND THAT THE USG WOULD NOT FEEL IT NECESSARY TO PRESS ITS POSITION FURTHER. WHILE MINISTRY WOULD PREFER TO APPLY AGREEMENT IN ANY FUTURE INCIDENTS OF US FISHING OUTSIDE AREA OF AGREEMENT, EMBASSY DOES NOT BELIEVE THAT MINISTRY CAN FULLY GUARANTEE THAT NATIONAL LEGISLATION WOULD NOT BE ENFORCED SINCE BRAZILIAN NAVY, AS ENFORCEMENT AGENCY, WOULD ORIGINATE CHARGES.

3. COPIES OF DECREE MENTIONED IN MINISTRY'S NOTE WILL BE FORWARDED TO ARA/BR. SUMMARY OF BRAZILIAN LEGISLATION ON FOREIGN FISHING OPERATONS IN TERRITORIAL WATERS WAS REPORTED BRASILIA 9334 OF DECEMBER 13, 1974.
CRIMMINS

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